

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LUIS RIOS,

Petitioner,

ORDER

v.

12-cv-68-wmc

R. WERLINGER,  
Warden, FCI Oxford,

Respondent.

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Petitioner Luis Rios, a prisoner at the Federal Correctional Institution in Oxford, Wisconsin, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. He requests leave to proceed *in forma pauperis*. Although petitioner has supported his request with an affidavit of indigency, I cannot determine whether petitioner is indigent for the purpose of filing a § 2241 petition until he submits a trust fund account statement for the six-month period immediately preceding the filing of his habeas corpus petition. *See Longbehn v. U.S.*, 169 F.3d 1082 (7th Cir. 1999).

Once petitioner submits his trust fund account statement, this court will calculate petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, he will not be eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Now that petitioner is aware of the formula this court uses in determining whether a prisoner is indigent for the purpose of paying a \$5 filing fee, he may be able to figure easily whether he qualifies. If he knows that he will not qualify for indigent status, he may elect to submit a check or money order made payable to the clerk of court in the amount of \$5 in lieu

of the six-month statement requested above. In any event, petitioner should act quickly. If, by February 24, 2012, petitioner does not submit either the \$5 payment or a trust fund account statement for the last six months, his request for leave to proceed *in forma pauperis* will be denied and this action will be closed.

ORDER

IT IS ORDERED that petitioner Luis Rios may have until February 24, 2012, in which to submit a trust fund account statement for the period beginning approximately August 1, 2011 and ending approximately February 1, 2012. Alternatively, petitioner may have until February 24, 2012, in which to pay the \$5 fee for filing his petition. If, by February 24, 2012, petitioner does not pay the filing fee or submit the required trust fund account statement, the clerk of court is directed to close this case for petitioner's failure to prosecute.

Entered this 3<sup>rd</sup> day of February, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge